UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,573	09/26/2003	Seitaro Kimura	Q77480	2325

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EXAMINER
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ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	**Applicant(s)**
	10/670,573	KIMURA, SEITARO
Office Action Summary	**Examiner**	**Art Unit**
	ROBERT MOSSER	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2009*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-16* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☒ All　b)☐ Some *　c)☐ None of:
　　　1.☒ Certified copies of the priority documents have been received.
　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which

papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-7**, and **9-16**, are rejected under 35 U.S.C. 102(b) as being anticipated

by Walker et al (US 5,779,549).

Claims **1, 3,** and **4**:   Walker teaches an online distributed tournament system

including:

a virtual start time determination means for deciding the virtual start time of a

plurality of matches (*Walker* Abstract Col 9:4-37,, 11:50-67);

a related match selection means for selecting a match from the plurality of

matches based the match, virtual start time, and the relation of a main match start time

thereto (-tournament and player pairing - *Walker* 11:41-67);

match simulation means for simulating a match (*Walker* Col 14:14-47);

event time arrival monitoring means for recognizing the arrival of an event time

during the execution of a match (- Match conclusion – *Walker* Col 11:41-67);

an event content outputting means for outputting event content at the event time

during the execution of the main match (- Determine a Winner of each match – *Walker*

Col 11:41-67); and

event replay/storage data for reproducing and displaying events occurring in a

match as event content (-Determine, save, and announce the winners – Walker Col

11:41-67).

Claim **2**:   The language of claim 2 presently encompasses the announcement of a

winner, wherein if a winner is announced during a non-player involved match and

subsequently the player is notified that they will compete against the announced winner

the announcement of the winner is replayed such as taught by Walker (*Walker* Col

11:41-67).

Claims **5-7**:   Walker teaches the storage of game results, determination of match

pairing therefrom, and the pairing of players or team based player/team standings

(*Walker* Col 9:66-10:8, 11:41-67)

Claim **9**: Walker teaches that the player tournaments include player interaction based

on game state (*Walker* Col 10:13-41, 11:30-49).

Claim **10**:   Walker teaches associating a virtual start time in hours and minutes for game events (*Walker* Col 9:4-37) wherein the virtual start time is reflective of an actual start time.

Claims **11-13:**   In addition to the above, Walker alternatively provides for the storage of event content and content for delivery at scheduled times related claim features with the scheduled delivery of player messages as demonstrated by database of the same listing the same elements ("scheduled times for player notifications/warnings" *Walker* Col 17:57-18:6) and further descriptions relating the delivery content in this case an email to notify players that a game session is about to end (*Walker* Col 13:66-14:13; Figure 7). Though the above does not explicitly identify that the content of the notifications is stored as cited in columns 13 and 14 of Walker, Walker teaches that the match start and end times as message content which are separately shown as data elements in columns 13 and 14 of Walker. Further the event of notifying player's when a tournament is about to conclude represents an event occurring in both the player's match of the tournament and the all other players matches in a tournament.

Claim **14-16**: Claims 14 through 16 generally set specify that the related match simulation means is performed in absence of the player's input and the use of either an algorithm or artificial intelligence however as Walker provides for a plurality of other matches during the same round of the same tournament as the player's match and that

these related matches include the participation of other players in addition to the

incorporation of algorithms for the simulation and determination of game results (Walker

10:13-32, 12:29-38, 12:45-49, 13:6-14), thus Walker provides the respectively claimed

features.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
      obviousness or nonobviousness.

Claim **8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et

al (US 5,779,549).

Walker teaches associating a virtual start time in hours and minutes for game

events (Walker Col 9:4-37) and that tournaments may take place over weeks (Walker

Col 11:50-63). Walker however does not explicitly teaches notifying the user of the date

including a month and day value. It would have been obvious to one of ordinary skill in

the art at the time of invention to have incorporated a month and date value into the

match schedule of Walker in order to allow the automated scheduling of game matches

in Walker to account for tournaments that take place over weeks as taught by Walker.

Claim interpretation

The applicant's present claims 1-10 and 14-16 contain language identifies the

arrival of an event time and conditions the outputting of the content if the event time

arrives during a match, the claim language however does not describe when that

information is disseminated.

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event time arrival monitoring means for monitoring arrival of the virtual event time
stored by the event storage means during execution of the main match; and

event content output means for outputting event content corresponding to the virtual
event time if it is determined by the event time arrival monitoring means that the virtual
event time has arrived during execution of the main match.

Response to Arguments

Virtual time

On page 8 on the applicant's remarks the applicant argues that the system of the prior art utilizes real time juxtaposed to the claimed virtual time. Respectfully the separation between these two elements as presently claimed is understood to be an issue of nomenclature rather then functionality or structure. Walker provides for the start of a virtual tournament at a given time, while the applicant's claimed invention provides for the start of a virtual tournament at a virtual time.   However the applicant's have provided no limiting definition of virtual time that would separate the terminology of virtual time from the time of prior art. According the claimed terminology of "virtual time" encompasses the time element of Walker because the phrase "virtual time" merely relates to the commencement of a virtual game match and fairly describes the utilization of any virtual environment time on a machine.

Match Selection means

On page 9 of the applicant's remarks the applicant alleges that the prior art of Walker fails to teach a match selection means for selecting at least one match taking place at the same virtual time as the player's match based on the virtual start times of the matches. The related claim language however is presently encompasses the pairings of a plurality of players during the same round of an elimination tournament, such as a chess tournament wherein the each match is related to one another because they cumulatively decide which and in what manner players will participate in the next round. The preceding chess tournament is respectfully presented by Walker (Col 11:41-67).

Simulation means

Continuing at the bottom of page 9 of the applicant's remarks the applicant

alleges that the prior art of Walker fails to teach the claimed simulation means, and

further alleges that the game(s) of Walker are performed vie manual interaction.

Respectfully the term simulation means for simulating one or more matches does not

fairly limit the claims to exclude player interaction. The claimed simulation means

presently and broadly encompasses the virtual games played by the

contestants/players that simulate real life activities, such as the game chess and golf as

taught by Walker (Walker Col 10:13-41).

<u>Event Storage, Event time detection, and Event content outputting means</u>

On pages 10 through 11 the applicant argues that the prior art of Walker fails to

provide for an event storage means, event time detection means, and an event content

outputting means. In support of the above the applicant argues that the invention of

Walker does not disclose storing events that occur during the execution of related,

simulated parings (Remarks page 10). However Walker demonstrates that in

contradiction to the above the individual match outcomes are stored and utilized for the

determination of at least latter pairing between players in a tournament (Walker 11:50-

60). The applicant additionally alleges that Walker fails to teach the storage of a virtual

event time when an event occurs, however if the invention of Walker did not recognize

the conclusion of a match it would be incapable of ever determining when a player

winner or loses a match.

The applicant additionally argues the determination of a match outcome occurs

after the conclusion of a match (Remarks page 10). Respectfully, the outcome of a

match can be known after the conclusion of a match however this con only occur if it is first determined during the match.

Bridging pages 10 and 11 of the applicant's remarks the applicant argues that Walker does not disclose the claimed event time arrival monitoring means for providing event content if the event time occurs during the execution of the main match. In opposition to this however in the process of tracking match outcomes during a round Walker monitors the outcomes of all related matches in a tournament both when they occur during a player's match and also when they occur outside a player's match.

The applicant further asserts that claim one teaches event content and a virtual event time at which the event content occurs as a basis for when the event content is disseminated, however as previously presented the claim language as reflected in at least claims 1 through 10 does not speak to when the event content is disseminated, only that the event content has with it an associated time and that the event content is outputted "if" event arrival time is judged to have occurred.

The remainder of the applicant's arguments presented on page 12 are reliant on previously presented and addressed arguments presented with reflection to claim 1 and are considered non-persuasive for their reliance thereon.

Accordingly the rejections of claims 1 through 10 are maintained as previously presented.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT MOSSER whose telephone number is (571)272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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